

REMARKS/ARGUMENTS

Applicants thank Examiner Schiro for the courtesy of an interview granted to Applicants' representative on January 12, 2009. During the interview Applicants' claims were discussed; namely, arguments with respect to non-obviousness in view of *Waeber* and *Kim*. Arguments similar to those presented during the interview are presented below.

Claims Status

Claims 1-8, 10 and 12-18 are pending. Claims 16-18 are added. New claim 16 finds support in the specification: page 9, lines 28-32. New claims 17 and 18 find support in the specification: page 9, lines 39-40. No new matter has been entered.

§103(a) Rejection

Claims 1-8, 10 and 12-15 have been rejected under 35 U.S.C. §103(a) as obvious in view of the combination of *Waeber* (US 2005/0066448) and *Kim* ("Preparation of Ethylene-Modified Latex Using Ethylene-Acrylic Acid Resin", Macromol. Symp. 151, 509-514, 2000). Applicants respectfully traverse this rejection.

At the outset it should be noted that the Office admits that *Waeber* fails to disclose or suggest (i) the use of an emulsifier in the aqueous liquor or (ii) that solids are present in the liquor in at least 5.5 g/l (claim 1) or at least 7 g/l (claim 5) (Office Action, page 3, item 5). In response to *Waeber*'s deficiencies, the Office asserts that (i) *Kim* discloses the use of an ethylene-acrylic acid resin (EAA) as an emulsifier with organic polymers (Office Action, page 3, item 6), and (ii) it would have been obvious to modify the solids content of the liquor (Office Action, page 4, item 8). Accordingly, the Office concludes that it would have been obvious to combine the aqueous liquor of *Waeber* with the emulsifier of *Kim* and to then

modify the solids content of the liquor to obtain the claimed invention (Office Action, page 3, items 7 and 8).

In contrast to the Office's position, Applicants submit that (a) there is no motivation to combine *Waeber* and *Kim*, (b) there is no motivation to modify the solids content of the liquor, and (c) even if one skilled in the art were to combine *Waeber* and *Kim*, such a combination does not disclose or suggest the improved mechanical strength as obtained by the claimed invention.

(a) *Waeber* does not disclose or suggest the use of emulsifiers like those found in *Kim* (i.e., EAA) because *Waeber's disclosure focuses on the goal of eliminating the use of "health and environmentally hazardous standard chemicals employed nowadays*" (Abstract; see also [0007]-[0010]). As *Kim* discloses that the EAA emulsifier used contains 20% acrylic acid (Summary), and acrylic acid is a known toxin to both mammals and the environment (see MSDS), the addition of such an emulsifier in the liquor of *Waeber* would be contrary to the purpose of *Waeber*. Accordingly, one skilled in the art looking to improve upon *Waeber* would lack the motivation to look to such toxic emulsifiers as found in *Kim*.

(b) Furthermore, even if one were to introduce an emulsifier (e.g., EEA) into the liquor of *Waeber*, *Waeber* only discloses liquors containing solids up to 5 g/l (Aerosil R812S of Examples 2, 4, 7 and 8; see also Applicants' specification: page 2, lines 1-7). In contrast, Applicants' claim a solids content of the liquor being at least 5.5 g/l (claim 1) or at least 7 g/l (claim 5). Thus, the "preferred" working range as disclosed by *Waeber* would be 5.0 g/l or less, not 5.5 g/l or more or 7 g/l or more as claimed by Applicants. With this in mind, one skilled in the art would have no motivation to look above the "preferred" thresholds of 5 g/l. Furthermore, courts have held that where, as here, the prior art disclosure suggests the outer limits of the range of suitable values, and that the optimum resides within that range, and where there are indications elsewhere that in fact the optimum should be sought within that

range (all examples), the determination of optimum values outside that range may not be obvious (*In re Sebek*, 465 F.2d 902, 175 USPQ 93, 95 (CCPA 1972)). Thus, without any motivation to consider a solids content above 5.0 g/l, Applicants' claims are not rendered obvious.

(c) Lastly, the combination of *Waeber* and *Kim*, if one were inclined to combine them, which they would not be, does not disclose or suggest the improved mechanical strength of textiles obtained by Applicants' claims. Page 2, lines 3-6 and 9-10 of the specification describes: "The finishing process described in WO 01/75216 [*Waeber*] provides finishing layers in which the colloids are anisotropically dispersed in the dispersion medium in that the colloids are observed to become concentrated at the boundary layer between the finishing layer and the surrounding surface." and "textiles finished by the process described in WO 01/75216 [*Waeber*] lack satisfactory mechanical strength in many cases." Furthermore, the paragraph bridging pages 11 and 12 of the specification explains the following: "Textile materials according to the present invention further exhibit very good mechanical strength. In the textile materials coated according to the present invention, the solid or solids used are isotropically or substantially isotropically distributed throughout the finishing coat, i.e., no concentration is observed in the boundary layer between the finishing coat and the surrounding atmosphere." Thus, it is the Applicants position that the combination of *Waeber* and *Kim* does not disclose or suggest the improved mechanical strength of textiles obtained by Applicants' claims, especially in view of the alteration of the solids content of the liquor which neither reference alone or in combination discloses or suggests.

Accordingly, without motivation to combine *Waeber* and *Kim*, without motivation to modify the solids content of the liquor, and without a disclosure or suggestion by the

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references, alone or in combination, of improved mechanical strength as obtained by the claimed invention, these references do not render obvious Applicants' claims.

Conclusion

For the reasons discussed above, Applicants submit that all now-pending claims are in condition for allowance. Applicants respectfully request the withdrawal of the rejections and passage of this case to issue.

Respectfully submitted,

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